

Environmental Protection Agency

§ 142.32

location for the hearing. If, upon notification of a finding by the Administrator, the State takes adequate corrective action, the Administrator shall rescind his notice to the State of a public hearing, provided that the Administrator is notified of the corrective action prior to the hearing.

(c) The Administrator shall publish notice of the public hearing in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the involved State including a summary of the findings made pursuant to paragraph (a) of this section, a statement of the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

(d) Hearings convened pursuant to paragraphs (b) and (c) of this section shall be conducted before a hearing officer to be designated by the Administrator. The hearing shall be conducted by the hearing officer in an informal, orderly and expeditious manner. The hearing officer shall have authority to call witnesses, receive oral and written testimony and take such other action as may be necessary to assure the fair and efficient conduct of the hearing. Following the conclusion of the hearing, the hearing officer shall forward the record of the hearing to the Administrator.

(e) Within 180 days after the date notice is given pursuant to paragraph (b) of this section, the Administrator shall:

(1) Rescind the finding for which the notice was given and promptly notify the State of such rescission, or

(2) Promulgate with any modifications as appropriate such revocation and revised schedules proposed in such notice and promptly notify the State of such action.

(f) A revocation or revised schedule shall take effect 90 days after the State is notified under paragraph (e)(2) of this section.

§ 142.24 Administrator's rescission.

If, upon notification of a finding by the Administrator under § 142.23, the State takes adequate corrective action before the effective date of the revocation or revised schedule, the Adminis-

trator shall rescind the application of his finding to that variance, exemption or schedule.

Subpart D—Federal Enforcement

§ 142.30 Failure by State to assure enforcement.

(a) The Administrator shall notify a State and the appropriate supplier of water whenever he finds during a period in which the State has primary enforcement responsibility for public water systems that a public water system within such State is not in compliance with any primary drinking water regulation contained in part 141 of this chapter or with any schedule or other requirements imposed pursuant to a variance or exemption granted under section 1415 or 1416 of the Act: *Provided*, That the State will be deemed to have been notified of a violation referred to in a report submitted by the State.

(b) The Administrator shall provide advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance by the earliest feasible time.

[41 FR 2918, Jan. 20, 1976, as amended at 52 FR 20675, June 2, 1987]

§ 142.31 [Reserved]

§ 142.32 Petition for public hearing.

(a) If the Administrator makes a finding of noncompliance pursuant to § 142.30 with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information as described in § 142.33.

(b) A petition for a public hearing pursuant to paragraph (a) of this section shall be filed with the Administrator and shall include the following information:

(1) The name, address and telephone number of the individual or other entity requesting a hearing.

(2) If the petition is filed by a person other than the State or public water

system, a statement that the person is served by the system.

(3) A brief statement of information that the requesting person intends to submit at the requested hearing.

(4) The signature of the individual submitting the petition; or, if the petition is filed on behalf of a State, public water system or other entity, the signature of a responsible official of the State or other entity.

§ 142.33 Public hearing.

(a) If the Administrator grants the petition for public hearing, he shall give appropriate public notice of such hearing. Such notice shall be by publication in the FEDERAL REGISTER and in a newspaper of general circulation or by other appropriate communications media covering the area served by such public water system.

(b) A hearing officer designated by the Administrator shall gather during the public hearing information from technical or other experts, Federal, State, or other public officials, representatives of the public water system, persons served by the system, and other interested persons on:

(1) The ways in which the system can within the earliest feasible time be brought into compliance, and

(2) The means for the maximum feasible protection of the public health during any period in which such system is not in compliance.

(c) On the basis of the hearing and other available information the Administrator shall issue recommendations which shall be sent to the State and public water system and shall be made available to the public and communications media.

§ 142.34 Entry and inspection of public water systems.

(a) Any supplier of water or other person subject to a national primary drinking water regulation shall, at any time, allow the Administrator, or a designated representative of the Administrator, upon presenting appropriate credentials and a written notice of inspection, to enter any establishment, facility or other property of such supplier or other person to determine whether such supplier or other person has acted or is acting in compliance

with the requirements of the Act or subchapter D of this chapter. Such inspection may include inspection, at reasonable times, of records, files, papers, processes, controls and facilities, or testing of any feature of a public water system, including its raw water source.

(b) Prior to entry into any establishment, facility or other property within a State which has primary enforcement responsibility, the Administrator shall notify, in writing, the State agency charged with responsibility for safe drinking water of his intention to make such entry and shall include in his notification a statement of reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. The Administrator shall in any event offer the State agency the opportunity of having a representative accompany the Administrator or his representative on such entry.

(c) No State agency which receives notice under paragraph (b) of this section may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; if a State so uses such information, notice to the agency under paragraph (b) of this section is not required for subsequent inspections of public water systems until such time as the Administrator determines that the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice received under paragraph (b) of this section.

Subpart E—Variances Issued by the Administrator Under Section 1415(a) of the Act

§ 142.40 Requirements for a variance.

(a) The Administrator may grant one or more variances to any public water system within a State that does not have primary enforcement responsibility from any requirement respecting a maximum contaminant level of an